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SECRETARIAT
OF
THE ODISHA LEGISLATIVE ASSEMBLY
NOTIFICATION

The 24th November, 2023

No.7362/L.A.— The following Bill, which has been introduced in the Odisha Legislative Assembly on the 24th November, 2023 is here with published under rule-68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information

THE ODISHA LOKAYUKTA (AMENDMENT) BILL, 2023
(BY DR. MUKESH MAHALING, M.L.A.)

A

BILL

FURTHER TO AMEND THE ODISHA LOKAYUKTA ACT, 2014

BE it enacted by the Legislature of the State of Odisha in the
Seventy third year of the Republic of India, as follows:-

Short title, extent,
application and
commencement

- 1** (i) This Act may be called the Odisha Lokayukta (Amendment) Act, 2023.
- (ii) It extends to the whole of the State of Odisha.
- (iii) It shall be applicable to the Public Servants of the State of Odisha serving in and outside the State and the public servants under the control of Government of Odisha.
- (iv) It shall come into force on such date as the

Government may by notification, appoint.

- Amendment of Section 2
- 2.** (1) In the Odisha Lokayukta Act, 2014 (hereinafter referred to as the Principal Act), the Clause (d) of Sub Section (1) of Section (2) shall be substituted, namely:-

“Complaint” means a complaint, made, in an easy form which shall not be cumbersome and deterrent for people and as may be prescribed with advice of Odisha Lokayukta, alleging that a public servant has committed an offence punishable under the Odisha Prevention of Corruption Act, 1988.”

- (2) In the Odisha Lokayukta Act, 2014 the Clause (n) of Sub Section (1) of Section (2) shall be substituted, namely:—

“Public Servant” means a person referred to in Clause (a) to (h) and in addition to new Clause (i) to (k) of Sub-Section (1) of Section 14 with due amendment but does not include a public servant in respect of whom the jurisdiction is exercisable by any court or other authority under the Army Act.1950, the Air Force Act.1950, the Navy Act.1957 and the Coast Guard Act.1978 or the Procedure is applicable to such Public Servants under those Acts.

- Amendment of Section 11
- 3.** In the Odisha Lokayukta Act, 2014 the Sub Section (1) of Section (11) shall be substituted, namely:-

“The Vigilance Wing of General

Administration Department, Govt. of Odisha shall work under direct administrative control of Odisha Lokayukta and shall constitute an independent inquiry wing headed by Director-Cum-Addl. D.G., Vigilance for the purpose of Preliminary inquiry and Subsequent investigation under instruction and direct supervision of Lokayukta into any offence alleged to have been committed by a public servant as defined under the Act. and punishable under the Odisha preventions of Corruption Act, 1988.

Government shall make available all staff of Directorate of Vigilance of Odisha by separating it from G.A. Department and placing it under direct control of Odisha Lokayukta for conducting preliminary inquiry & subsequent investigation under this Act.”

Amendment of
Section 12

4.

In the Odisha Lokayukta Act, 2014 the Sub-Section (1) of Section (12) shall be substituted, namely:-

“The Lokayukta shall, by notification constitute an independent prosecution wing headed by the Director of Prosecution who is or has been in the rank of Director of Public Prosecution of the State for the purpose of prosecution of public servants in relation to any complaint made before the Lokayukta under this Act.

Govt. shall make available such member of officers and other staff from such of its departments, as may be required by the Lokayukta to create a separate independent Directorate of Prosecution under direct administrative control and supervision of Odisha Lokayukta for conducting prosecution under this Act.”

Amendment of
Section 14

- 5. (1)** In the Odisha Lokayukta Act, 2014 after Clause (c) of Sub Section (1) of Section (14) the new Clauses (d) and (e) shall be added, namely:-

“(d) Any person who is Chairperson or President or Vice-Chairperson or Vice-President, Sarpanch or Naib Sarpanch or a member by whatever name called, of a Zillaparishad or Panchayat Samiti or Gram Panchayat or a Municipality as respectively provided in Article 243-B and 243-Q of the Constitution of India.

(e) Any officer or employee of the State, referred to in Sub-Clauses (i) and (ii) of Clause (c) of Section 2 of the Prevention of Corruption Act.1988 and employees Govt. of India when serving or who has served on deputation to the State of Odisha in connection with affairs of the State.”

- (2) In the Odisha Lokayukta Act, 2014 after Clause (g) of Sub Section (1) of Section (14) the new Clauses (h), (i), (j) and (k) shall be added, namely:-

“(h) Any person who is or has been a Director, Manager, Secretary or Other Officer of every Other Society, or Non-Govt Organisation or Association of person or Trust (whether registered under any law for the time being in force or not) in receipt of any donation from the public and the annual income of which exceeds such amount as the Govt. may, by notification, specify or from any foreign source under foreign contribution (Regulation) Act.2010 in excess of ten lakh rupees in a year or such higher amount as the central Govt. may, by, notification, specify :

Provided that any person referred to in this Clause shall be deemed to be a public servant under Clause (C) of Section 2 of the Prevention of Corruption Act.1988 and the provision of the Act shall apply accordingly and the complaint cases arises against the public servant coming under this Clause shall be enquired justifying by inquiry wing of Lokayukta about receipt of any donation from public or foreign source and proper utilisation of the same.

(i) Vice-Chancellor of the University who are serving to the state in connection with the officers of the state of Odisha shall come under jurisdiction of public servant although University are guided by Section 14 of UGC Act.1956.

(j) MGNREGA OMBUDSMAN and Gram Rozgar Sevak and Panchayat Executive Officer when serving or who has served in connection with affairs of the State or with the affairs of Central Govt. where State Govt. is giving matching grant from state exchequers shall come under the jurisdiction of the Act as public servant.

(k) Any person, Officer or employee of the state when serving or who has served on contract basis or in temporary post or contractual post in connection with affairs of the State of Odisha shall come under the Act. as public servant for any matter involving or arising from or connected with any allegation of corruption made in a complaint.

Amendment of
Section 20

6. In the Odisha Lokayukta Act, 2014 the Sub- Section (1) of Section (20) shall be substituted, namely:-

“The Lokayukta shall receive the complaint as defined under the Act in following manner.

- (i) The complainant shall file the complaint individually or in a group or by through any institution.
- (ii) The complaint shall be filed by way of PIL also.
- (iii) The Lokayukta, suo moto from their side shall register the complaint as defined under Act if it comes in media report or to

the knowledge and notice of Lokayukta.

- (iv) Preliminary inquiry against any public servant by its inquiring wing or any agency to ascertain whether there exists a *prima facie* case for proceeding in the matter or.
- (v) Investigation by any agency or Authority empowered under any law to investigate, where there exists a *prima facie* case.
- (vi) If, the complainant fails to produce authentic documentary evidence in support of allegation made against any public servant then inquiry wing shall not reject the complain on the ground of non-availability of Prima Facie evidence.

In such a situation, the inquiry wing shall enquire the matter in presence of complainant & witness by verifying the issue based documents or records maintained at the level of public servant & inquiry wing shall facilitate to collect the documents for further investigation.”

Amendment of
Section 22

In the Odisha Lokayukta Act, 2014 the Sub- Section (1) and (2) of Section (22) shall be inserted, namely:-

- “(1) Subject to the provision of this Act., for the purpose of any preliminary enquiry or investigation, the Lokayukta or the investigating Authority, as the case may

be, may require any public servant or any other person including media personnel if there is any media report published on the complaint, who, in its option, is able to furnish information or produce documents relevant to such preliminary inquiry or investigation to furnish any such information or produce any such documents.

- (2) Any wilful disobedience of any process, order or direction of Lokayukta will be treated as misconduct entailing departmental action / disciplinary proceedings against the Officer concerned on the recommendation of Lokayukta.”

Amendment of
Section 28

8. In the Odisha Lokayukta Act, 2014 after Sub-section (3) of Section (28) a new sub-section (4) shall be inserted, namely :-

“Lokayukta shall be deemed to be the Court so Odisha Lokayukta shall be empowered with power of Contempt of Courts Act. 1971 like the power of contempt of the High Court of Orissa.

STATEMENT OF OBJECTS & REASONS

Corruption is a menace that has serious ramifications on the fundamental rights of the people as well as on the development of the country. It is additionally said that the widespread pervasiveness of corruption hampers the whole possibility of having a quality life. The high level of corruption in India has been generally perceived as a major obstacle in improving the quality of governance and weakening the development of the Country.

Corruption is unavoidable in the system of Governance in India. Corruption not only mean taking bribes. Corruption and maladministration are two ailments that influence the productivity of administration. **In other words corruption and maladministration are like twin sisters complementary to each other. It is the major issues that undermine the social texture and the political and administrative design of Indian society.** Corruption undermines the values of democracy and morality by threatening the nation's social, economic and political development and is capable of jeopardizing society, stability and protection.

It is customary to talk about corruption in public life. When administration lacks accountability and transparency, then corruption takes its shape in various forms such as:-

- (1) Delays in movement of file
- (2) Delays in decision making process
- (3) Arbitrariness
- (4) Unjust
- (5) Unfair activities

It is seen that common man does not realize that he can also play important role to stop the corruption.

When men are pure and laws are futile. But when men are corrupt, laws are abrogated. Crimes and corruption prosper in society because people endure them without resistance.

To combat corruption by creating the independent anticorruption ombudsman. **“The Odisha Lokayukta Act. 2014”** came into force with effect from 7th July, 2018 and the body of the Lokayukta has been established with effect from 28th February, 2019.

The institution of Lokayukta is set up as a watchman to prevent corruption and maladministration.

To give a powerful measure to counter corruption at all levels of public authority, not only the four pillars of democracy (Legislature, Executive, Judiciary and Media) should be powerfully organized, but also Lokayukta Odisha should be vigilant & perform the duty as a perfect watchman for which Lokayukta should be empowered by law through the amendments of different provision of the Principal Act. **“The Odisha Lokayukta Act. 2014”**.

In the public interest and for benefit of the state of Odisha, it is high time to strengthen the institution of Odisha Lokayukta by suitably amending the Principal Act. **“Odisha Lokayukta Act.2014”** for providing an independent inquiring wing by keeping directorate of vigilance under administrative control of Lokayukta and to provide independent directorate of prosecution to Lokayukta Odisha along with empowering Lokayukta with power of contempt of Courts Act.1971 like power of contempt of Odisha High Court.

The Bill seeks to achieve above objectives.

MUKESH MAHALING
MEMBER, IN-CHARGE

DASHARATHI SATAPATHY
OSD-CUM-SECRETARY
ODISHA LEGISLATIVE ASSEMBLY

Amendment of Section 22 **7.** In the Odisha Lokayukta Act, 2014 the Sub- Section (1) and (2) of Section (22) shall be inserted, namely:-

“(1) Subject to the provision of this Act., for the purpose of any preliminary enquiry or investigation, the Lokayukta or the investigating Authority, as the case may be, may require any public servant or any other person including media personnel if there is any media report published on the complaint, who, in its option, is able to furnish information or produce documents relevant to such preliminary inquiry or investigation to furnish any such information or produce any such documents.

(2) Any wilful disobedience of any process, order or direction of Lokayukta will be treated as misconduct entailing departmental action / disciplinary proceedings against the Officer concerned on the recommendation of Lokayukta.”

Amendment of Section 28 **8.** In the Odisha Lokayukta Act, 2014 after Sub-section (3) of Section (28) a new sub-section (4)

shall be inserted, namely :-

“Lokayukta shall be deemed to be the Court so Odisha Lokayukta shall be empowered with power of Contempt of Courts Act. 1971 like the power of contempt of the High Court of Orissa.